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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,137

10/18/2006

Markus Arnold

05579-00355-US

6311

23416

7590

01/09/2008

CONNOLLY BOVE LODGE & HUTZ, LLP

P O BOX 2207

WILMINGTON, DE 19899

EXAMINER

KLEMANSKI, HELENE G

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

01/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/594,137		ARNOLD ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Helene Klemanski		1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/25/06</u>   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The references cited in the Search Report dated June 10, 2005 have been considered.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: no literal antecedent basis is seen in the specification for the phrase "comprising one or more disperse dyes of the formula (I) in amounts of 0.01% by weight to 40% by weight, based on the total of the ink" in claims 7, 11, 13, 15 and 17.

The examiner suggests the incorporation of this phrase into the specification or the claims amended accordingly.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 is considered vague and indefinite since it is unclear which ring D applicants are referring back to (i.e. this claim is not dependent on any of the previous claims). The examiner assumed applicants intended that this claim should be dependent upon claim 1 and examined as such. Please clarify.

***Claim Rejections - 35 USC § 102***

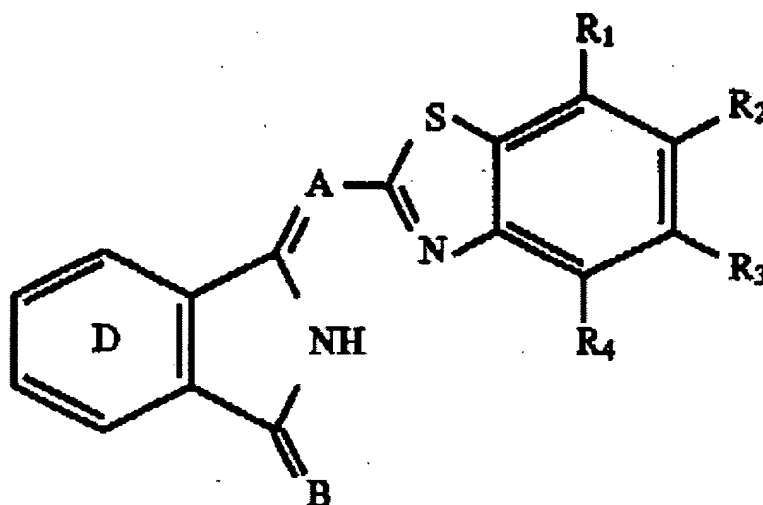
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lorenz et al. (US 5,646,290).

Lorenz et al. teach a thiazolylisoindolenine dyestuff of the formula



wherein A represents N or a cyanomethylene radical; B represents a radical of the formula  $C(CN)COOR_5$  or  $N-R_6$ ;  $R_1$  to  $R_4$  independently of one another are H, halogen, a substituted or unsubstituted  $C_{1-8}$  alkyl or  $C_{5-6}$  cycloalkyl uninterrupted or oxygen-interrupted  $C_{1-10}$  alkoxy, substituted or unsubstituted  $C_{6-10}$  aryloxy,  $CF_3$  or substituted or unsubstituted dialkylamine, or any two adjacent  $R_1$  to  $R_4$  radicals together with the aromatic ring C atoms form a fused benzene or naphthalene ring which may be substituted;  $R_5$  represents a substituted or unsubstituted, saturated or unsaturated  $C_{1-20}$  alkyl,  $C_{6-10}$  aryl-  $C_{1-10}$  alkyl or hetarylalkyl radical, the alkyl radical being uninterrupted or oxygen-interrupted;  $R_6$  represents a substituted or unsubstituted  $C_{5-6}$  cycloalkyl,  $C_{5-6}$  cycloalkyl-  $C_{1-8}$  alkyl,  $C_{6-10}$  aryl-  $C_{1-10}$  alkyl or  $C_{1-20}$  alkyl, the latter being uninterrupted or oxygen-interrupted and ring D is unsubstituted or carries at least one substituent which together with a further substituent in the ortho position and the ring carbon atoms may form a fused benzene ring or naphthalene ring. The above dyes are useful for dyeing or printing textile material for an aqueous suspension. See col. 1, lines 15-53, col. 2, lines 48-62, col. 3, lines 5-20 and lines 35-51, col. 3, line 65 – col. 4, line 20, col. 10, lines 45-63, col. 11, lines 4-13, col. 13, lines 15-57, the examples and claims 1-5. The thiazolyloindolenine dyestuff and aqueous printing inks containing the dyestuff as taught by Lorenz et al. appears to anticipate the present claims.

The preamble limitation "for textile printing by the inkjet process" is of no consequence when a composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 6411.

***Conclusion***

The remaining references listed on forms 892 and 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

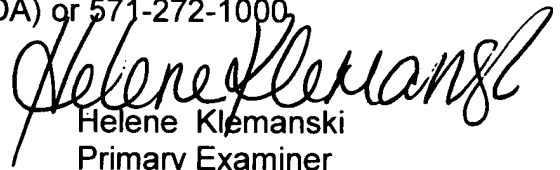
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Helene Klemanski  
Primary Examiner  
Art Unit 1793

  
HK

December 31, 2007